

STATE OF MICHIGAN  
COURT OF APPEALS

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JOYCE WILSON,

Plaintiff-Appellant,

v

UNIVERSITY OF MICHIGAN,

Defendant-Appellee.

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UNPUBLISHED

July 27, 1999

No. 207790

Court of Claims

LC No. 96-070821 CM

Before: Fitzgerald, P.J., and Holbrook, Jr., and O’Connell, JJ.

PER CURIAM.

Plaintiff Joyce Wilson appeals as of right from an order denying her motion for reconsideration of an order granting defendant summary disposition, and also denying plaintiff’s motion to amend her complaint. We affirm.

Plaintiff’s claim results from a slip and fall accident that occurred on the snow covered sidewalk just outside of the entrance and exit doors of the University of Michigan pavilion on the Flint campus. Plaintiff was at the pavilion because she had to vacate her nearby place of work during a fire drill. Plaintiff first argues that the trial court improperly granted defendant’s motion for summary disposition. We disagree. Although the trial court did not specifically state under which of the subrules it was ruling, we read the court’s opinion as indicating that the motion was granted pursuant to both subrules (C)(7) and (10).

This Court reviews a trial court’s grant or denial of summary disposition de novo. *Spiek v Dep’t of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). “MCR 2.116(C)(7) tests whether a claim is barred because of immunity granted by law, and requires consideration of all documentary evidence filed or submitted by the parties. . . . [A]ll well-pleaded allegations are accepted as true, and construed most favorably to the non-moving party.” *Wade v Dep’t of Corrections*, 439 Mich 158, 162-163; 483 NW2d 26 (1992). “MCR 2.116(C)(10) tests the factual basis underlying a plaintiff’s claim. [It] permits summary disposition when, except for the amount of damages, there is no genuine issue concerning any material fact . . . .” *Stehlik v Johnson (On Rehearing)*, 206 Mich App 83, 85; 520 NW2d 633 (1994).

After reviewing the record, we conclude that because plaintiff's claim is barred by governmental immunity,<sup>1</sup> the trial court properly granted defendant's motion pursuant to MCR 2.116(C)(7). Plaintiff alleged that the public building exception<sup>2</sup> to governmental immunity applied to her claim because she slipped and fell on the sidewalk area immediately outside the entrance and exit doors of the pavilion. However, the public building exception to governmental immunity applies only to injuries suffered as a result of a dangerous or defective condition of the building itself. *Horace v City of Pontiac*, 456 Mich 744, 756; 575 NW2d 762 (1998). Areas adjacent to an entrance or exit are not considered to be part of a public building. *Id.* at 757. Accordingly, injuries occurring in these areas do not justify application of the public building exception. *Id.* at 758. Therefore, because the public building exception was inapplicable, plaintiff's negligence claim was barred by governmental immunity. MCL 691.1407(1); MSA 3.996(107)(1); *Horace, supra* at 758.<sup>3</sup>

Plaintiff also argues that the lower court erred in denying her motion to amend her complaint. Again, we disagree. "This Court will not reverse a trial court's decision on a motion to amend a complaint absent an abuse of discretion that results in injustice." *Phillips v Deihm*, 213 Mich App 389, 393; 541 NW2d 566 (1995). Denial of leave to amend is justified when an amendment would be futile. *Weymers v Khera*, 454 Mich 639, 658; 563 NW2d 647 (1997).

Plaintiff argues that the amendment would not be futile because she can allege facts that bring her claim within the public building exception to governmental immunity. However, as previously discussed, the area in front of the entrance and exit of a public building is not covered by the public building exception. *Horace, supra* at 757-758. Therefore, because plaintiff's injury occurred in the entrance and exit area of the pavilion, plaintiff's amendment would have been futile.

Affirmed.

/s/ E. Thomas Fitzgerald  
/s/ Donald E. Holbrook, Jr.  
/s/ Peter D. O'Connell

<sup>1</sup> MCL 691.1407(1); MSA 3.996(107)(1).

<sup>2</sup> MCL 691.1406; MSA 3.996(106).

<sup>3</sup> Because we conclude that summary disposition was properly granted under MCR 2.116(C)(7), we need not address whether it could also have been granted under subrule (C)(10). See *SCD Chemical Distributors, Inc v Medley*, 203 Mich App 374, 382; 512 NW2d 86 (1994).